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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

14 **CRISELDA D. FONTANILLA**

15 Respondent.

Case No. 2012-592

DEFAULT DECISION AND ORDER

[Gov. Code, § 11520]

16 **FINDINGS OF FACT**

17 1. On or about April 2, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
18 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Statement of Issues No. 2012-592 against Criselda D. Fontanilla
(Respondent) before the Board of Registered Nursing.

20 2. On or about August 30, 2011, Respondent filed an application dated August 26, 2011,
21 with the Board of Registered Nursing to obtain a Registered Nurse License.

22 3. On or about November 7, 2011, the Board issued a letter denying Respondent's
23 application for a Registered Nurse License. On or about December 13, 2011, Respondent
24 appealed the Board's denial of her application through her attorney, Kevin C. Murphy, Murphy
25 Jones LLP, 2445 Fifth Avenue, Suite 330, San Diego, California 92101; (619) 684-5073.

26 4. On or about April 3, 2012, an employee of the Department of Justice, served by
27 Certified and First Class Mail a copy of the Statement of Issues No. 2012-592, Statement to
28 Respondent, Request for Discovery, Government Code sections 11507.5, 11507.6, and 11507.7,

1 and Respondent/Applicant's Notice of Designation of Counsel (2), and Respondent/Applicant's
2 Notice of Withdrawal of Request for Hearing (2) to Respondent's address on the application form,
3 which was and is: 5827 Grechetto Court, Las Vegas, NV 89141, with a copy to her attorney. The
4 Statement of Issues is attached as Exhibit A, and is incorporated herein by reference.

5 5. Service of the Statement of Issues was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 6. On or about May 14, 2012, through her attorney, Respondent filed a Notice of
8 Withdrawal of Request for Hearing.

9 7. Business and Professions Code section 118 states, in pertinent part:

10 (a) The withdrawal of an application for a license after it has been filed with a
11 board in the department shall not, unless the board has consented in writing to such
12 withdrawal, deprive the board of its authority to institute or continue a proceeding
against the applicant for the denial of the license upon any ground provided by law or
to enter an order denying the license upon any such ground.

13 8. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

17 9. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent; and where the burden of proof is on the respondent to establish that the
respondent is entitled to the agency action sought, the agency may act without taking
evidence.

22 10. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on
24 evidence on file herein, as well as Respondent's withdrawal of her appeal of the denial of her
25 application.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Criselda D. Fontanilla has
3 subjected her application for a Registered Nurse License to denial.

4 2. Service of Statement of Issues No. 2012-592 and related documents was proper and
5 in accordance with the law.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board of Registered Nursing is authorized to deny Respondent's application for
8 licensure under sections 480, subdivision (a)(2) of the Code in that she committed, and admitted
9 committing, acts involving dishonesty, fraud, or deceit when she attempted to steal \$539 worth of
10 clothing from a Macy's department store on October 17, 2006.

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27 Attachment:
28 Exhibit A: Statement of Issues No.2012-592

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

CRISELDA D. FONTANILLA

Respondent.

Case No. 2012-592

DECISION AND ORDER

IT IS SO ORDERED that the application for Registered Nurse License, filed by Respondent Criselda D. Fontanilla, is denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 31, 2012.

It is so ORDERED August 3, 2012
Raymond Mallef

**FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS**

Exhibit A

Statement of Issues No. 2012-592

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
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7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

14 **CRISELDA D. FONTANILLA**

15 Respondent.

Case No. **2012-592**

STATEMENT OF ISSUES

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about August 30, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Criselda D.
24 Fontanilla (Respondent). On or about August 26, 2011, Criselda D. Fontanilla certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on November 7, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession in
2 question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the crime
4 or act is substantially related to the qualifications, functions, or duties of the business
5 or profession for which application is made.

6 (b) Notwithstanding any other provision of this code, no person shall be denied
7 a license solely on the basis that he or she has been convicted of a felony if he or she
8 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
9 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
10 convicted of a misdemeanor if he or she has met all applicable requirements of the
11 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
12 person when considering the denial of a license under subdivision (a) of Section 482.

13 (c) A board may deny a license regulated by this code on the ground that the
14 applicant knowingly made a false statement of fact required to be revealed in the
15 application for the license.

16 REGULATORY PROVISIONS

17 7. California Code of Regulations, title 16, section 1444, states:

18 A conviction or act shall be considered to be substantially related to the
19 qualifications, functions or duties of a registered nurse if to a substantial degree it
20 evidences the present or potential unfitness of a registered nurse to practice in a
21 manner consistent with the public health, safety, or welfare. Such convictions or acts
22 shall include but not be limited to the following:

23 (a) Assaultive or abusive conduct including, but not limited to, those violations
24 listed in subdivision (d) of Penal Code Section 11160.

25 (b) Failure to comply with any mandatory reporting requirements.

26 (c) Theft, dishonesty, fraud, or deceit.

27 (d) Any conviction or act subject to an order of registration pursuant to Section
28 290 of the Penal Code.

8. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code,
the board, in evaluating the rehabilitation of the applicant and his/her present
eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as
grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
under consideration as grounds for denial which also could be considered as grounds
for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s)
referred to in subdivision (1) or (2).

1 (4) The extent to which the applicant has complied with any terms of parole,
2 probation, restitution, or any other sanctions lawfully imposed against the applicant.

3 (5) Evidence, if any, of rehabilitation submitted by the applicant.
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5 **FACTUAL ALLEGATIONS**

6 9. On or about the afternoon of October 17, 2006, Respondent entered a Macy's
7 department store in the city of Las Vegas. Loss prevention officers at the store observed
8 Respondent selecting various clothing items from various locations and concealing them on her
9 person. At first, the loss prevention officers observed Respondent carrying only her purse,
10 however, at some point she emerged from a fitting room carrying a Victoria's Secret shopping
11 bag which she used to hide the merchandise. Respondent was observed as she continued to bring
12 clothing items into fitting rooms, then emerge empty-handed except for her purse and shopping
13 bag. Respondent was detained by store security when she left the store without paying for the
14 items. Officers from the Las Vegas Metropolitan Police Department interviewed Respondent.
15 She told them that she did not have money to pay for the items, but she wanted them and the only
16 way to get them was to take them. Respondent stated that she brought scissors with her to cut off
17 the security tags, but she was able to pull off the tags. Respondent was arrested. The estimated
18 total of the clothing Respondent attempted to steal was \$539.

19 10. As a result of the arrest, on or about October 24, 2006, a criminal complaint was filed
20 against Respondent in the matter of *State vs. Criselda Fontanilla*, in Justice Court, Las Vegas
21 Township, in case number 06F20496. Respondent was charged with burglary, grand larceny, and
22 possession of burglary tools.

23 11. At a hearing on February 5, 2007, the court ordered Respondent to stay out of trouble
24 for one year, attend petit larceny school, and complete nursing school in the Phillipines. Upon
25 providing proof that the conditions were met, the state would move to dismiss the charges.

26 12. On April 7, 2008, Respondent provided proof that she was enrolled in nursing school.
27 The court granted the state's motion to dismiss the case.

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1 CAUSE FOR DENIAL OF APPLICATION

2 (Acts Involving Dishonesty, Fraud, or Deceit)

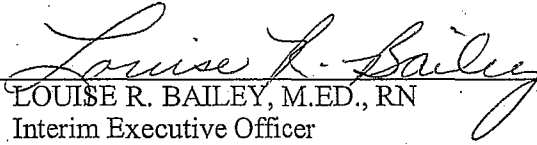
3 13. Respondent's application is subject to denial under sections 480, subdivision (a)(2)
4 of the Code in that she committed, and admitted committing, acts involving dishonesty, fraud, or
5 deceit when she attempted to steal \$539 worth of clothing from a Macy's department store on
6 October 17, 2006, as described in paragraph 9, above.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Denying the application of Criselda D. Fontanilla for a Registered Nurse License;
11 2. Taking such other and further action as deemed necessary and proper.

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14 DATED: April 2, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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